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REMARKS

I. Amendments

Claims 1-9 have been canceled. Claim 10 has been amended to recite a further limitation of the pharmaceutical composition and to remove any dependency upon canceled claims. Claim 11 has been made independent and amended to include features of the invention recited in canceled claim 1. Canceled "use" claims 3-7 have been rewritten as new method claims 12-16, respectively. Accordingly, only allowable claims are pending.

Upon entry of this Amendment, claims 10-16 are pending. No new matter has been added by any of the amendments herein.

II. Rejection under 35 U.S.C. § 101

Claims 1-7 are rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory "use" claims. Claims 1-7 have been canceled without prejudice. Canceled claims 3-7 have been rewritten as new method claims 12-16, respectively.

III. Rejection under 35 U.S.C. § 112

Claims 8-11 are rejected under 35 U.S.C. § 112, second paragraph, as being dependent on non-statutory "use" claim 1. In order to expedite allowance of the application, claims 8-9 have been canceled without prejudice. Claims 10-11 have been amended by removing any dependencies upon canceled claims 8 and 1, respectively.

Claim 11 is also rejected under 35 U.S.C. § 112, first paragraph, as allegedly being nonenabled for any and all diseases caused generally by mycobacteria. Again, in order to expedite prosecution, claim 11 has been limited to recite the

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specific embodiment of treatment of mycobacterial tuberculosis. Applicant reserves the right to resume prosecution of the deleted subject matter in a continuation application.

IV. Rejection under 35 U.S.C. § 103(a)

Claims 8-10 are rejected under 35 U.S.C. § 103(a) as allegedly being obvious over WO 94/29272 (WO94) and WO 93/12085 (WO93). In order to expedite allowance of the application, claims 8-9 have been canceled without prejudice.

Claim 10 has been amended to recite the limitation of the pharmaceutical composition of formula I for the use in the treatment of mycobacterial tuberculosis. Therefore, claim 10 is patentable.

Claim 10 is distinguishable over WO94 and WO93 for at least the following reasons:

a) Neither WO94 nor WO93 discloses or suggests specifically an example wherein the X moiety (of the prior art) is an unsubstituted phenyl nor do WO94 or WO93 disclose or suggest that the unsubstituted phenyl is required (and at a specific position) such as is the case in instant claim 10; and

b) WO94 and WO93 do not disclose or suggest that the pharmaceutical compositions can be used for the treatment of mycobacterial tuberculosis such is the case in instant claim 10, (pages 1 and 7, lines 3-5 and 10-12, respectively, of the specification).

Withdrawal of the rejection of claim 10 under §103(a) is respectfully requested.

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CONCLUSION

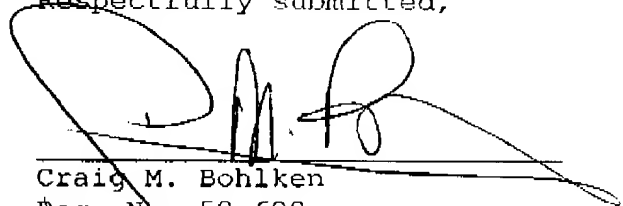
Upon entry of this Amendment, claims 10-16 remain pending. Applicant respectfully submits that claims 10-16 are in condition for allowance, which action is earnestly solicited.

Authorization is hereby given to charge any fee which may be due in connection with this communication to Deposit Account 23-1703.

Dated: _____

08/08/2004

Respectfully submitted,



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